

Message Text

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ORIGIN ARA-20

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E.O. 11652, N/A

TAGS: PFOR, PN, CU

SUBJECT: PRESS GUIDANCES ON CUBAN SHIPS DETAINED IN
PANAMA CANAL

FOLLOWING ARE TWO GUIDANCES DATED OCTOBER 4 AND 5 PREPARED
FOR USE BY THE DEPARTMENT SPOKESMAN REGARDING DETENTION OF
CUBAN SHIPS IN THE PANAMA CANAL (NO QUESTIONS ASKED AT
DEPARTMENT'S BRIEFINGS ON EITHER DATES). THE INFORMATION
IS FOR POSTS USE IF QUERIED BY MEDIA.

GUIDANCE FOR OCTOBER 4:

Q: WHAT CAN YOU TELL US OF THE REPORTS THAT THE U.S. GOVERN-
MENT HAS DETAINED A CUBAN SHIP, OR SHIPS, IN THE PANAMA
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CANAL?

A: THE CARGO SHIP IMIAS, BOUND FROM YOKAHAMA TO HAVANA IS UNDER ATTACHMENT IN GATUM LAKE. THE ORDER OF ATTACHMENT WAS ISSUED BY THE U.S. DISTRICT COURT FOR THE CANAL ZONE AT THE REQUEST OF ATTORNEYS REPRESENTING THE CHILEAN GOVERNMENT. ATTACHMENT IS A ROUTINE LEGAL PROCEDURE. A PLAINTIFF IN A CIVIL PRECEEDING MAY ATTACH PROPERTY OF THE DEFENDENT LOCATED WITHIN THE TERRITORY UNDER THE COURT'S JURISDICTION IN ORDER TO INSURE THAT HE WILL BE ABLE TO EXECUTE ANY JUDGMENT HE MAY EVENTUALLY OBTIAN. THE FACT THAT AN ATTACHMENT IS MADE DOES NOT IMPLY ANY DETERMINATION ON THE MERITS OF THE PLAINTIFF'S CLAIM. THE DEFENDENT MAY SECURE THE RELEASE OF HIS PROPERTY BY POSTING A SECURITY BOND PENDING THE COMPLETION OF THE LEGAL PROCEEDINGS.

IN THIS INSTANCE, AS WE UNDERSTAND IT, THE GOVERNMENT OF CHILE HAS CLAIMED THAT ANOTHER CUBAN VESSEL, THE PLAYA LARGA, OFF LOADING AT THE CHILEAN PORT OF VALPARAISO WHEN THE COUP TOOK PLACE, DEPARTED WITHOUT FULLY OFFLOADING ITS CARGO OF SUGAR. CHILE CLAIMS IT HAS PAID FOR THIS SUGAR AND HAS BEEN WRONGFULLY DENIED IT BY THE CUBAN GOVERNMENT. IT IS SUING THE GOVERNMENT OF CUBA FOR THE VALUE OF THE SUGAR AND OTHER DAMAGES. THE PLAYA LARGA TRANSITED THE CANAL WITHOUT INCIDENT LAST WEEK. CHILE DID ATTACH ANOTHER CUBAN SHIP THE MARBLE ISLAND WHICH ENTERED CANAL ZONE WATERS LAST MONDAY. THE U.S. MARSHALL LEFT THE VESSEL IN THE CUSTODY OF THE CPATAIN, WHO AGREED TO REMAIN AT ANCHOR AT BALBOA BUT, DURING THE NIGHT, THE VESSEL DEPARTED.

Q: WHAT'S THE NEXT STEP?

A: THE MATTER IS BEFORE THE U.S. COURT. WE UNDERSTAND THAT BOTH THE GOVERNMENT OF CHILE AND THE GOVERNMENT OF CUBA ARE REPRESENTED BY ATTORNEYS.

Q: HAS CUBA DECLARED SOVEREIGN IMMUNITY IN REGARD TO THE IMIAS?

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A: YES. THE GOVERNMENT OF CUBA HAS MADE A FORMAL REQUEST TO THE DEPARTMENT FOR A RECOMMENDATION TO THE COURT THAT THE VESSEL IS IMMUNE FROM ATTACHMENT. THE DEPARTMENT HAS ESTABLISHED PROCEDURE FOR HANDLING SUCH REQUESTS, WHICH INCLUDE A FULL HEARING OF BOTH OF THE PARTIES INVOLVED. IT WOULD BE INAPPROPRIATE TO COMMENT FURTHER ON THIS MATTER UNTIL THOSE PROCEEDINGS ARE COMPLETED.

GUIDANCE FOR OCTOBER 5:

Q: CAN YOU CONFIRM PRESS REPORTS THIS MORNING FROM PANAMA THAT THE GOVERNMENT OF PANAMA HAS ISSUED A COMMUNIQUE ACCUSING THE UNITED STATES OF ILLEGALLY SEIZING THE CUBAN SHIP IMIAS.

A: OUR EMBASSY REPORTED THIS MORNING THAT THE PANAMANIAN GOVERNMENT ISSUED A COMMUNIQUE ON THE ATTACHMENT OF THE IMIAS. I CANNOT BE PRECISE CONCERNING IT SINCE WE HAVE NOT YET RECEIVED THE TEXT. HOWEVER, IT IS SAFE TO SAY THAT THE COMMUNIQUE EXPRESSES DISAPPROVAL OF THE ATTACHMENT.

Q: HAS THE CUBAN GOVERNMENT PROTESTED TO US?

A: WE RECEIVED A NOTE FROM THE CUBANS THROUGH THE SWISS ON OCT. 3 ASKING THAT SOVEREIGN IMMUNITY BE GRANTED WITH RESPECT TO THE VESSEL. THE REQUEST FOR SOVEREIGN IMMUNITY WILL BE HANDLED IN ACCORDANCE WITH THE DEPARTMENT'S USUAL PROCEDURES. UNDER THAT PROCEDURE, THE PARTIES ARE REQUESTED TO PRESENT LEGAL MEMORANDA TO THE DEPARTMENT, WHICH THEN HOLDS A HEARING. THE DEPARTMENT THEN DECIDES WHETHER IT SHOULD MAKE A SUGGESTION TO THE COURT THAT THE DOCTRINE OF SOVEREIGN IMMUNITY BE APPLIED SO AS TO BAR THE ATTACHMENT AND SUIT.

CONCERNING THE DOCTRINE OF SOVEREIGN IMMUNITY GENERALLY; MOST LATIN AMERICAN STATES CONSIDER THAT ALL GOVERNMENT PROPERTY IS IMMUNE FROM ATTACHMENT. THE U.S. AND MANY OTHER STATES FOLLOW THE SO-CALLED "RESTRICTIVE" DOCTRINE OF SOVEREIGN IMMUNITY WHICH CONSIDERS THAT ONLY GOVERNMENT PROPERTY BEING USED FOR OFFICIAL GOVERNMENT PURPOSES IS SO IMMUNE.

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Q: HOW COMMON IS ATTACHMENT OF SHIPPING IN THE PANAMA CANAL?

A: VERY COMMON. IT'S A CONVENIENT PLACE TO ATTACH A VESSEL SINCE SO MUCH OF THE WORLD'S SHIPPING PASSES THROUGH IT. IN 1972, 24 SHIPS WERE ATTACHED IN THE ZONE; 16 HAVE BEEN ATTACHED THERE THIS YEAR TO DATE.

DECONTROL JANUARY 5, 1974. RUSH

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